

ORIGINAL

United States District Court  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

ELLIOT GREENBERG, Individually and On  
Behalf of All Others Similarly SituatedSUMMONS IN A CIVIL CASE  
C 07 4141

CASE NUMBER: 4141

SBA

v.

LUMINENT MORTGAGE CAPITAL, INC., GAIL  
P. SENECA, SEWELL TREZEVANT MOORE,  
JR. and CHRISTOPHER J. ZYDA

TO: (Name and address of defendant)

See Attachment A

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)Shawn A. Williams  
Lerach Coughlin Stoia Geller Rudman & Robbins LLP  
100 Pine Street, Suite 2600  
San Francisco, CA 94111  
415/288-4545

an answer to the complaint which is herewith served upon you, within 40 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

AUG 13 2007

Richard W. Wiking

CLERK

DATE \_\_\_\_\_

(BY) DEPUTY CLERK

ANNA SPRINKLES



RETURN OF SERVICE		
DATE		
Service of the Summons and Complaint was made by me <sup>1</sup>		
Name of SERVER	TITLE	
Check one box below to indicate appropriate method of service		
<input type="checkbox"/> Served Personally upon the Defendant. Place where served:		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:		
<input type="checkbox"/> Returned unexecuted:		
<input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on	_____ <i>Date</i>	_____ <i>Signature of Server</i>
_____ <i>Address of Server</i>		
(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure		

ATTACHMENT A

Luminent Mortgage Capital, Inc.

Registers Agent:  
Fred Dreher  
One Market Street  
Spear Tower, 30th Floor  
San Francisco, CA 94105

Gail P. Seneca

191 Edgemont Way  
Inverness, CA 94937

Sewell Trezevant Moore, Jr.

113 Woods Lane  
Radnor, PA 19087

Christopher J. Zyda

363 Valencia Street, Unit 4  
San Francisco, CA 94103

## WAIVER OF SERVICE OF SUMMONS

To: Shawn A. Williams  
 (NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Luminent Mortgage Capital, Inc.  , acknowledge receipt of your request  
 (DEFENDANT NAME)

that I waive service of summons in the action of Greenberg v. Luminent Mortgage Capital, Inc. ,  
 (CAPTION OF ACTION)  
 which is case number C 07-04141 SBA in the United States District Court  
 (DOCKET NUMBER)  
 for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a  
 means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this  
 lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process  
 in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or  
 to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the  
 service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting)  
 if an Luminent Mortgage Capital, Inc.

answer or motion under Rule 12 is not served upon you within 60 days  
 after

August 24, 2007

(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

Sept. 7, 2007  
 (DATE)

  
 (SIGNATURE)

Printed/Typed Name: John J. Soroko

As Attorney of Luminent Mortgage Capital, Inc.  
 (TITLE) (CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

Clear Form

## WAIVER OF SERVICE OF SUMMONS

To: Shawn A. Williams

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Gail P. Seneca

(DEFENDANT NAME)

 , acknowledge receipt of your request

that I waive service of summons in the action of Greenberg v. Luminent Mortgage Capital, Inc.,  
 (CAPTION OF ACTION)  
 which is case number C 07-04141 SBA in the United States District Court  
 (DOCKET NUMBER)  
 for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an Gail P. Seneca

answer or motion under Rule 12 is not served upon you within 60 days  
 after

August 24, 2007

(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

Sept 7, 2007

(DATE)



(SIGNATURE)

Printed/Typed Name: John J. SorokoAs Attorney

(TITLE)

of Gail P. Seneca

(CORPORATE DEFENDANT)

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## WAIVER OF SERVICE OF SUMMONS

To: Shawn A. Williams  
 (NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Sewell Trezevant Moore, Jr.  , acknowledge receipt of your request  
 (DEFENDANT NAME)

that I waive service of summons in the action of Greenberg v. Luminent Mortgage Capital, Inc. ,  
 (CAPTION OF ACTION)  
 which is case number C 07-04141 SBA in the United States District Court  
 (DOCKET NUMBER)  
 for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a  
 means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this  
 lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process  
 in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or  
 to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the  
 service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting)  
 if an Sewell Trezevant Moore, Jr.

answer or motion under Rule 12 is not served upon you within 60 days  
 after

August 24, 2007 ,  
 (DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

Sept. 7, 2007  
 (DATE)

  
 (SIGNATURE)

Printed/Typed Name: John J. Soroko

As Attorney of Sewell Trezevant Moore, Jr.  
 (TITLE) (CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

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A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

Clear Form

## WAIVER OF SERVICE OF SUMMONS

To: Shawn A. Williams  
 (NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I, Christopher J. Zyda  , acknowledge receipt of your request  
 (DEFENDANT NAME)

that I waive service of summons in the action of Greenberg v. Luminent Mortgage Capital, Inc.,  
 (CAPTION OF ACTION)  
 which is case number C 07-04141 SBA in the United States District Court  
 (DOCKET NUMBER)  
 for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a  
 means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this  
 lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process  
 in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or  
 to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the  
 service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting)  
 if an Christopher J. Zyda

answer or motion under Rule 12 is not served upon you within 60 days  
 after

August 24, 2007  
 (DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

Sept 7, 2007  
 (DATE)

  
 (SIGNATURE)

Printed/Typed Name: John J. Soroko

As Attorney of Christopher J. Zyda  
 (TITLE) (CORPORATE DEFENDANT)

## Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

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